



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Dalrymple for Governor  
Amy C. Lunde, Campaign Manager  
P. O. Box 952  
Bismarck, ND 58502

**FEB - 5 2016**

RE: MUR 6931

Dear Ms. Lunde:

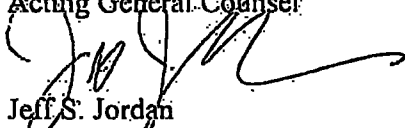
On April 17, 2015, the Federal Election Commission notified Dalrymple for Governor, a.k.a. Friends of Jack Dalrymple, (the "Committee") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On December 10, 2015, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe the Committee violated 52 U.S.C. § 30121(a) in connection with a contribution from John Pfeffer. Also on this date, the Commission dismissed the allegations that contributions made by Leo Ledohowski and accepted by the Committee violated 52 U.S.C. § 30121(a). Accordingly, the Commission closed its file in this matter on January 21, 2016.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Ana Pena-Wallace, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Daniel A. Petalas  
Acting General Counsel

BY:   
Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination and  
Legal Administration

Enclosure  
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

4 **RESPONDENTS:** Governor Jack Dalrymple MUR 6931  
5 Dalrymple for Governor  
6 (a.k.a. Friends of Jack Dalrymple)  
7

8 **I. INTRODUCTION**

9 This matter was generated by a complaint filed with the Federal Election Commission  
10 (the "Commission") by Daniel G. Hinnenkamp on April 10, 2015, alleging violations of the  
11 Federal Election Campaign Act of 1971, as amended (the "Act") by Governor Jack Dalrymple  
12 and Dalrymple for Governor. For the reasons set forth below, the Commission finds no reason to  
13 believe that Governor Jack Dalrymple and Dalrymple for Governor violated 52 U.S.C.  
14 § 30121(a) in connection with a contribution from John Pfeffer. Additionally, the Commission  
15 exercised its prosecutorial discretion and dismissed the remaining allegation that the  
16 Respondents violated 52 U.S.C. § 30121(a) in connection with a contribution from Leo  
17 Ledohowski.

18 **II. FACTUAL AND LEGAL ANALYSIS**

19 **A. Factual Background**

20 Based on information obtained from the North Dakota Secretary of State's website, the  
21 complaint alleges that Governor Jack Dalrymple of North Dakota and his campaign committee  
22 accepted contributions from foreign nationals, in violation of the Act: specifically, a \$2,500  
23 contribution on July 11, 2012, made by Leo Ledohowski, who disclosed a Canadian mailing  
24 address, and a \$1,000 contribution from John Pfeffer on October 15, 2012, who had a London  
25 mailing address.

1 Available information confirms that Ledohowski is a Canadian citizen but Governor  
2 Dalrymple's response asks that no action be taken because his acceptance of Ledohowski's  
3 contribution was "an inadvertent violation resulting from the campaign's reliance on state law."<sup>1</sup>  
4 His campaign refunded Ledohowski's contribution on April 22, 2015.

5 With regard to the alleged foreign contribution from Pfeffer, Dalrymple states that his  
6 campaign believed that Pfeffer was a citizen of the United States. The response included a copy  
7 of Pfeffer's original contribution check, which shows a Tennessee address.<sup>2</sup> Dalrymple states  
8 that the London address listed on the committee's disclosure report was an updated address from  
9 an address service.<sup>3</sup> Pfeffer has also confirmed that he is a U.S. citizen and has provided a copy  
10 of his U.S. passport indicating the same.

11 **B. Legal Analysis**

12 Under the Act, it is unlawful for a foreign national, directly or indirectly, to make a  
13 contribution or donation of money or other thing of value "in connection with a Federal, State, or  
14 local election."<sup>4</sup> In addition, no person may solicit, accept, or receive a foreign national  
15 contribution or donation.<sup>5</sup> A "foreign national" is an individual who is not a citizen of the United  
16 States or a national of the United States and who is not lawfully admitted for permanent

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<sup>1</sup> Dalrymple Resp. (Apr. 22, 2015).

<sup>2</sup> *Id.*, Attach. 1.

<sup>3</sup> *Id.* at 1.

<sup>4</sup> 52 U.S.C. § 30121(a)(1)(A); 11 C.F.R. § 110.20(b).

<sup>5</sup> 52 U.S.C. § 30121(a)(2). The Commission's regulations employ a "knowingly" standard here. 11 C.F.R. § 110.20(g). A person knowingly accepts a prohibited foreign national contribution or donation if that person has actual knowledge that funds originated from a foreign national, is aware of facts that would lead a reasonable person to conclude that there is a substantial probability that the funds originated from a foreign national, or is aware of facts that would lead a reasonable person to inquire whether the funds originated from a foreign national but failed to conduct a reasonable inquiry. *Id.* § 110.20(a)(4).

1 residence.<sup>6</sup> If a committee treasurer, based on new evidence not available to the political  
2 committee at the time of receipt and deposit, discovers that an illegal contribution, such as one  
3 from a foreign national, was accepted, the treasurer shall refund the contribution to the  
4 contributor within thirty days of the date on which the illegality is discovered.<sup>7</sup>

5 It appears that the contribution that Governor Dalrymple's campaign accepted from  
6 Ledohowski violated the prohibition on contributions by foreign nationals under the Act and  
7 Commission regulations. Governor Dalrymple, however, indicates that in accepting the  
8 contribution he relied on guidance provided by a state government office that was ultimately  
9 incorrect. Moreover, his committee promptly refunded the impermissible contributions from  
10 Ledohowski, totaling \$2,500, on April 22, 2015, shortly after being notified of the complaint in  
11 this matter.

12 Based on the available information, it appears that the violation may have been  
13 inadvertent in nature. In light of the fact that the illegal contribution was refunded within the  
14 thirty-day time period required by Commission regulations, further enforcement resources are  
15 not warranted in this matter. Accordingly, the Commission has chosen to exercise its  
16 prosecutorial discretion to dismiss the allegations that Governor Jack Dalrymple, and Dalrymple  
17 for Governor (a.k.a. Friends of Jack Dalrymple) violated 52 U.S.C. § 30121(a) in connection  
18 with Ledohowski's contributions.<sup>8</sup>

19 Furthermore, in light of the available evidence that demonstrates that Pfeffer is a United  
20 States citizen, his contribution to Governor Dalrymple's campaign committee did not violate the

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<sup>6</sup> 52 U.S.C. § 30121(b)(2); 11 C.F.R. § 110.20(a)(3)(ii).

<sup>7</sup> 11 C.F.R. § 103.3(b)(2).

<sup>8</sup> See *Heckler v. Chaney*, 470 U.S. 821 (1985).

- 1 Act's foreign national contribution prohibition. Therefore, the Commission finds no reason to
- 2 believe that Governor Jack Dalrymple and Dalrymple for Governor (a.k.a. Friends of Jack
- 3 Dalrymple) violated 52 U.S.C. § 30121(a) in connection with John Pfeffer's contribution.